

# 2020 TML Legislative Initiatives



## Talking Points: BEP Funding

- By law, education is funded pursuant to the BEP formula with the state responsible for 65% of the recommended funding level and the remaining 35% of the recommended funding level to be satisfied by local government.
- The actual cost of education is substantially larger than the level of funding mandated by the BEP formula, resulting in a sizeable gap. This funding gap must be filled.
- Today, local government is filling this gap at a cost of an additional \$1.3 billion in local funding for salaries and an additional \$215 million in associated retirement and federal insurance contributions.
- Consequently, local government is paying 46% of the actual costs of education in the state rather than the 35% envisioned under BEP. Conversely, the state is only providing funding sufficient to cover 54% of the actual costs of education rather than the 65% intended under the BEP.

## What Do We Want

- Modify the BEP formula so that it more accurately reflects what the actual cost is for providing instructional education throughout the state.

## Inadequacy of BEP



## Proposed Legislation

### Background

By law, education is funded pursuant to the BEP formula with the state responsible for sixty-five percent (65%) of the recommended funding level and the remaining thirty-five percent (35%) of the recommended funding level to be satisfied by local government.

### Problem

The state can accurately claim to be fully-funding its sixty-five percent (65%) share of the amount recommended under the BEP formula. However, fully-funding the BEP mandated level is not the same as fully-funding the actual cost of education in the state. In fact, the actual cost of education is substantially larger than the level of funding mandated by the BEP formula.

There are several factors that contribute to this discrepancy, but the costs associated with teachers' salaries and benefits are a principle offenders. First, the BEP formula only provides sufficient funding to cover a portion of the teaching positions required. The amount of funding recommended by the formula covers 63,774 teaching positions, while there are 78,610 teachers employed. As such, the formula only recognizes eighty-one percent (81%) of the teaching positions in the state. Second, the formula does not recognize the actual cost of salaries paid to teachers in the state. The BEP formula assumes an annual salary of \$44,430 for a teaching position. The average salary paid to teachers is \$52,455. Thus, the BEP formula only funds eighty-five percent (85%) of a teacher's salary, on average.

If the BEP recommends funding to support eighty-one percent (81%) of the teaching positions at a salary that is eighty-five percent (85%) of the salaries actually paid to teachers, then the BEP recommended funding level only recognizes sixty-nine percent (68.6%) of the actual instructional personnel costs incurred. Additionally, this means the BEP formula only funds sixty-nine percent (69%) of TCRS and FICA contributions for these positions, which results in locals incurring an additional 16.7% in instructional personnel costs.

In only recognizing 69% of the actual instructional personnel costs, the BEP formula results in a sizeable gap between recommended funding levels and actual expenses to be paid. This funding gap must be filled. Today, local government is filling this gap at a cost of an additional \$1.3 billion in local funding for salaries and an additional \$215 million in associated retirement and federal insurance contributions.

Consequently, local government is paying forty-six percent (46%) of the actual costs of education in the state rather than the thirty-five percent (35%) envisioned under the BEP. Conversely, the state is only providing funding sufficient to cover fifty-four percent (54%) of the actual costs of education rather than the sixty-five percent (65%) intended under the BEP. If the state were to fund sixty-five percent (65%) of the actual costs of education in the state for the next fiscal year, then the state would have to increase its share of the funding by \$944 million.

### Remedy

Modify the components of the BEP formula to provide a more accurate accounting of state mandated instructional positions and a truer measurement of teachers' salaries and benefits.



# 2020 TML Legislative Initiatives



## Talking Points: Single Article Cap

- In 2002, during difficult budget times, the state doubled the amount of an individual sale item that is subject to the local portion of sales tax that is customarily reserved for local sales tax (2.75%) from \$1,600 to \$3,200.
- Under the altered arrangement, the state receives its full 7% levy and local government continues to receive its local levy on the first \$1,600 of the purchase price of an item. However, the state retains 100% of the combined state and local levy (9.75%) on sale items with a cost between \$1,600 and \$3,200.
- This measure has resulted in the state realizing \$721 million more of local option sales tax revenues collected by the state instead of staying in those cities, counties, and school systems, where the purchase was made.
- Last year, alone, the state received approximately \$60 million from the 2.75 % levy on items above \$1,600. As a result, nearly \$29 million in sales tax revenues were diverted from local school systems and another \$29 million was diverted from local governments
- Today, the fiscal crisis is well behind us and the state has realized more than \$4.2 billion in surplus revenues, yet these two austerity measures are still in place today.

## What Do We Want

- Reverse this 17-year old measure to provide needed revenues for cities, counties and school systems. The returned revenue would provide relief to local taxpayers, allow local governments to meet funding demands that are necessary to provide essential services to our citizens, and afford the quality of life that has allowed this state to prosper.

**SB2488(Dickerson)/HB2640(Carr)**

**Background**

In 2002, during difficult budget times, the state doubled the amount of an individual sale item that is subject to the portion of the sales tax rate that is customarily reserved for local government (2.75%) from \$1,600 to \$3,200.

Under the altered arrangement, the state receives its full 7% levy and local government continues to receive its local levy on the first \$1,600 of the purchase price of an item. However, the state retains 100% of the total levy (9.75%) on sale items with a cost between \$1,600 and \$3,200.

**Problem**

Seventeen years later, the state is enjoying fiscal prosperity and the threat of a fiscal crisis is a distant memory. Yet, this austerity measure remains in place.

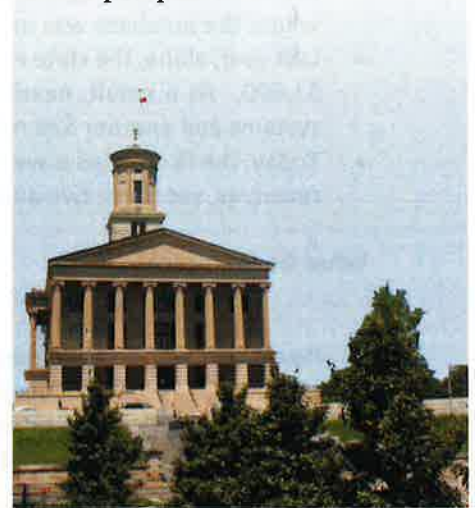
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**Remedy**

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# 2020 TML Legislative Initiatives



## Talking Points: Decoupling State Share Taxes

- Since 1947, cities have received a portion of the state sales tax in recognition of the local tax burden borne by city residents that is associated with promoting economic activity and generating state sales tax revenues.
- For 55 years, 4.6% of all state sales tax revenues were returned to cities for this purpose.
- In 2002, during difficult budget times, this relationship was altered when the state increased the sales tax rate from 6% to 7%. Cities were required to sacrifice their historical share so that the benefit of all new revenues would accrue solely to the state.
- 17 years later, the crisis is well behind us and the state has enjoyed a period of sustained economic and fiscal prosperity, realizing more than \$4.2 billion in surplus revenues.
- Tennessee cities are the economic engines of our state, and serve as hubs for regional economies. The economic activity derived from cities' investments account for 92% of all state sales tax collections, 80% of all state business tax collections, as well as the vast majority of the state's Franchise and Excise tax collections.
- Yet during this time of economic prosperity, cities' local revenues have been reduced by more than \$100 million and cities continue to face additional funding burdens including education funding shortfalls, infrastructure investments, debt service payments, and providing the services and amenities necessary to support economic activity.

## What Do We Want

- Restore the 55-year sharing relationship and allow cities to share in 100% of the state sales tax revenues designated for the state's general fund. These revenues would help local governments meet funding demands that are necessary to provide essential services to our citizens, reduce the tax burden borne by local taxpayers, and facilitate continued economic vitality.



**SB1158(Jackson)/HB1007(Carr)****Background**

Cities are the economic engine of the state. Economic growth is intentional and when it occurs, it is financed largely through city taxes for police, fire, streets, water and sewer, schools, parks, libraries and other amenities that attract and retain businesses and make our communities desirable places for people to live and visit. Thus, city taxpayers finance the costs of infrastructure, services and amenities responsible for much of the state's economic output through their city taxes. As a result, any measurable economic growth is accompanied by an increased local tax burden borne by city residents.

The State recognized this fact in 1947, when the state began sharing 4.6% of each year's total state sales tax collections with cities. This was done for the purposes of recognizing the collective contribution of cities as the state's economic engine and acknowledging that city residents incur a local tax burden that is directly attributable to financing, developing and maintaining an economic environment that continues to generate a healthy portion of the sales tax revenues accruing to the state.

Today, 92% of the state's total sales tax collections are generated within city limits. Thus, this sharing amounts to a practice of returning to cities a small portion of the state's sales tax revenues in order to reduce the local tax burden. A burden that is borne by city taxpayers and that is directly associated with keeping the state's economic engine running.

In 2002, the state was confronting serious fiscal challenges and increased the sales tax rate from 6% to 7%. The revenues associated with this 1% increase in the state sales tax rate accrue entirely to the state's general fund, precluding cities from sharing in this increase and altering the historical relationship.

As a result of this change to the sharing relationship, municipalities only receive a share of the state sales tax generated by 5.5% of the state sales tax rate rather than the full 7%.

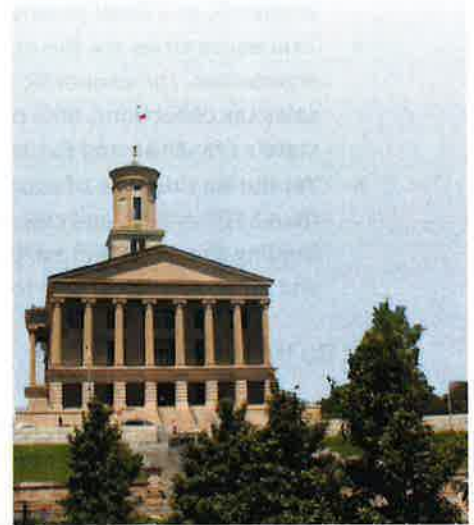
**Problem**

For 50 years, the state continued the sharing relationship first established in 1947, by returning 4.6% of the state's total annual sales tax revenues to cities. But that changed in the early 2000's, when the state elected to address its budget shortfall by altering this relationship; thereby, retaining more sales tax revenues for itself.

Seventeen years later, the state is enjoying fiscal prosperity and the threat of a fiscal crisis is a distant memory. Yet, this austerity measure remains in place. Precluding cities from sharing in this rate increase has reduced the effective share of the sales tax revenues provided cities from 4.6% to 3.6% of total state sales tax revenues. If one were to isolate only the effects of the state's decision to keep 100% of the revenues associated with the increase in the state's sales tax rate from 6% to 7%, then one would find that cities have been denied \$711 million in shared revenues since its adoption.

**Remedy**

Reverse the action taken nearly 20 years ago that allowed the state to amass more sales tax revenues and avert a deeper fiscal crisis by restoring the sharing relationship and allowing cities to share in 100% of the state sales tax revenues flowing to the state's general fund.



# 2020 TML Legislative Initiatives



## **Talking Points: Collection of Lodging Tax on Short-term Rentals**

- There are thousands of short-term rental properties operating across the state
- Owners are required to collect and remit any local lodging taxes on all stays (Attorney General Opinion #15-78)
- Few owners are aware of this obligation, and there is little opportunity for a city or county to successfully track these stays and collect taxes due
- Memphis and Nashville have negotiated an agreement that requires the online platforms to collect local hotel-motel tax due at the time of payment and to remit to the city, but online platforms have been reluctant to enter into similar agreements with other cities

## **What Do We Want**

- Require the online platforms to collect any lodging tax due and to remit these collections to the state for distribution to the appropriate city and/or county entity

**SB2477(Stevens)/HB2738(Moon)****Background**

The Tennessee Attorney General has opined (Opinion # 15-78) that short-term rentals of homes, apartments, and rooms in Tennessee that are arranged through platforms such as [www.airbnb.com](http://www.airbnb.com) and [www.vrbo.com](http://www.vrbo.com) are subject to the hotel/motel occupancy tax levied under Tenn. Code Ann. § 67-6- 205(c) (1). The collection and remittance of this tax is currently the responsibility of the owner of any property being utilized as a short-term rental.

The cities of Nashville and Memphis have entered into agreements with online rental companies that provide for the collection and remittance of lodging taxes to the city, via the online platform. By all accounts, these agreements seem to be working well.

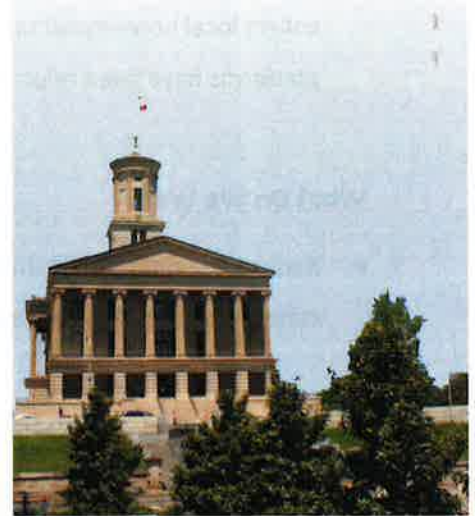
**Problem**

As a general rule, the owners of short-term rental properties are rarely aware of their obligations under the law. It is rarer still that such owners are collecting and remitting local lodging taxes. Operators of short-term rental properties in Memphis and Nashville are the exception to the rule.

However, given the online platforms reluctance to enter into similar agreements with every city and county that levies a lodging tax, it is unlikely this approach stands much of a chance of being repeated statewide. As such, cities and counties are highly unlikely to capture any of the lodging taxes due, absent a substantial investment of time and local resources into a permitting and enforcement regimen.

**Remedy**

Propose legislation requiring these on-line short-term rental platforms to collect any local lodging taxes due and to remit these collections to the Tennessee Department of Revenue. Further, this legislation should provide that the Tennessee Department of Revenue distribute these collections to the appropriate local government.





# 2020 TML Legislative Initiatives



## Talking Points: CMFO (Certified Municipal Finance Officer)

### SB1147/ HB1045 (Stevens/ Travis)

- In 2007, the General Assembly enacted legislation requiring almost every municipality to employ either a certified municipal finance officer (CMFO) or an individual with equivalent professional qualifications
- To obtain certification as a CMFO, a municipal employee must complete an eleven-course curriculum and pass an exam
- The employee must maintain his/her certification by completing 24 hours of continuing professional education annually. Failure to comply with this requirement could result in a city losing up to 15 percent of its annual state shared sales tax revenue.
- The Comptroller's office recently developed a similar voluntary program for county finance officials – Certified County Finance Officer (CCFO)
- While the CMFO and CCFO certification and maintenance programs are similar, there are some notable differences
- The county program contains a reimbursement component for the initial training courses in the form of a one-time \$1,000 stipend paid to the candidate upon completion of the course
- The county program also allows the employer to be reimbursed for expenses related to continuing education requirements.

### What Do We Want

- Develop a reimbursement program for municipal officials that provides an annual \$1,000 stipend to certified CMFOs and reimbursement for course fees and travel-related expenses to offset the cost of compliance with this mandate.

## Municipal CMFO Reimbursement from the State



## Proposed Legislation

### BACKGROUND

In 2007, the General Assembly enacted legislation that required each municipality to employ at least one certified municipal finance officer (CMFO), or individual with equivalent education qualifications.

The following individuals are exempt from the requirements leading to the CMFO designation, but must comply with continuing professional education (CPE) requirements:

- An individual designated as a certified government finance manager (CGFM) by the Association of Government Accountants;
- A certified public finance officer (CPFO) by the Government Finance Officers Association;
- Or a certified public accountant (CPA) by the state board of accountancy and in active status who has a minimum of five years of primarily governmental experience with at least three of those years in Tennessee.

The Municipal Technical Advisory Service (MTAS), in conjunction with the State Comptroller of the Treasury, develops the curriculum and provides the training and testing leading to the CMFO designation. To maintain certification, a CMFO must earn at least 24 CPE hours per year, at least 16 must be classified as financial per CMFO categories.

A municipality that does not comply with the requirement is subject to a penalty of up to a 15 percent reduction in annual state sales tax revenue. The penalty will be refunded once the city or town comes into compliance.

### Certified County Finance Officer Program

The Comptroller of the Treasury and the Tennessee County Technical Assistance Service (CTAS) have developed a similar program that provides Tennessee's county financial officers an opportunity to learn about accounting and financial reporting principles. CTAS administers the educational program and testing required to achieve the Certified County Finance Officer (CCFO) designation. The Comptroller's Office has been designated as the certification authority. This certification is voluntary and not mandated by state statute.

To maintain the CCFO certification in an active status, CCFOs are required to complete at least 16 hours of continuing professional education (CPEs) per year in financial related subjects.

Qualified county employees who complete the initial CCFO training program are eligible for a one-time educational stipend of \$1,000 paid from the Comptroller's Office. In addition, the employer may apply for and be reimbursed by the Comptroller for travel expenses incurred by an employee attending these initial training classes.

### CMFO and CCFO Training Requirements

Both certifications require completion of an 11-Course curriculum designed to ensure competence in the handling of municipal or county funds and the protection of public moneys. Courses include Internal Control and Audit, Government Accounting, and Payroll, Benefits, and Pensions. The 11 courses are completed in sequence, with an exam after each course. After completing the curriculum and achieving a passing grade on each exam, candidates are eligible to receive CMFO or CCFO certification.

### PROBLEM

The problem is an equity issue. While the CMFO and CCFO programs are similar, there are some notable differences. The CCFO program, which is voluntary, contains a \$1,000 stipend and reimbursement component for course fees and travel-related expenses. There is no reimbursement or stipend available to municipalities for the CMFO program, which is mandatory.

### REMEDY

Develop a reimbursement program for municipal officials that provides an annual \$1,000 stipend to certified CMFOs and reimbursement for course fees and travel-related expenses to offset the cost of compliance with this mandate.

